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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN JOSE DIVISION

13  
14 UNITED STATES OF AMERICA, } No. CR 05-00718 RMW  
15 Plaintiff, }  
16 v. }  
17 JUAN A. CARDENAS, }  
18 Defendant. }

} ORDER RESETTING  
STATUS CONFERENCE AND  
EXCLUDING TIME FROM THE SPEEDY  
TRIAL ACT CALCULATION (18 U.S.C. §  
3161(h)(8)(A))

20 This matter is currently set for status/trial setting on April 21, 2008. The parties now  
21 jointly request that the April 21, 2008 hearing date be reset for May 19, 2008. The grounds for  
22 the parties' request is that: (1) in an effort to eliminate unnecessary pre-trial motion practice, the  
23 parties wish to confer further regarding discovery, including materials the government has  
24 previously provided to the defense regarding DNA testing conducted in this matter. As part of  
25 this process, the government is working for provide to the defense bates-stamped copies of a  
26 significant number of documents related to that DNA testing which were previously provided in  
27 electronic form; and (2) the parties wish to confer regarding a pre-trial disposition of this matter,  
28 which may require conferring with state law enforcement authorities regarding pending state

STIPULATION AND [ ] ORDER  
CR 05-00718 RMW

1 criminal charges against the defendant arising from an alleged incident which took place after the  
2 alleged offense conduct in this case. If a resolution in this matter is not reached by the proposed  
3 May 19, 2008 status/hearing date, the parties' current intention would be to ask the Court on that  
4 date to set this matter for trial commencing on a subsequent date.

5 In light of the above, the parties agree, and the Court finds and holds, as follows:

6 1. The currently April 21, 2008 hearing date is hereby vacated.  
7 2. This matter is set for status/trial setting on May 19, 2008, at 9:00 a.m.  
8 2. The time between April 21, 2008 and May 19, 2008 is excluded under the Speedy Trial  
9 Act. The parties agree that the failure to grant the requested continuance would unreasonably  
10 deny defense counsel reasonable time necessary for effective preparation, taking into account the  
11 exercise of due diligence. See 18 U.S.C. § 3161(h)(8)(B)(iv). The parties agree that the ends of  
12 justice served by granting the requested continuance outweigh the best interest of the public and  
13 the defendant in a speedy trial and in the prompt disposition of criminal cases. See 18 U.S.C. §  
14 3161(h)(8)(A).

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16 STIPULATED:

17 DATED: 4/10/08

/s/  
NICHOLAS HUMY  
Assistant Federal Public Defender

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19 DATED: 4/11/08

/s/  
JOSEPH A. FAZIOLI  
Assistant United States Attorney

20 IT IS SO ORDERED.

21 DATED: 4/17/08

Ronald M. Whyte  
RONALD M. WHYTE  
UNITED STATES DISTRICT JUDGE

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